

98 FERC ¶ 61,165
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
William L. Massey, Linda Breathitt,
And Nora Mead Brownell.

Fact-Finding Investigation of Potential Manipulation of Electric and Natural Gas Prices

ORDER DIRECTING STAFF INVESTIGATION

(Issued February 13, 2002)

Under the Federal Power Act (FPA) and Natural Gas Act (NGA), the Commission has a statutory obligation to ensure that prices in jurisdictional wholesale energy markets are just and reasonable. Following Enron Corporation's declaration of Chapter 11 bankruptcy on December 2, 2001, allegations have been made that Enron Corporation, through its affiliates, used its market position to distort electric and natural gas markets in the West. The Commission therefore intends to gather information on whether any entity, including Enron Corporation (through any of its affiliates or subsidiaries), manipulated short-term prices for electric energy or natural gas in the West or otherwise exercised undue influence over wholesale electric prices in the West, since January 1, 2000, resulting in potentially unjust and unreasonable rates in long-term power sales contracts subsequently entered into by sellers in the West.

Accordingly, we direct Commission staff to undertake a fact-finding investigation into whether any entity, including Enron Corporation (through its affiliates or subsidiaries), manipulated short-term prices in electric energy or natural gas markets in the West or otherwise exercised undue influence over wholesale prices in the West, for the period January 1, 2000, forward. Staff will also look into other factors that may have influenced contract terms. In conducting this broad investigation, Commission staff may obtain information on any and all matters relevant to potential market manipulation in the West, including comparative information from other markets in the country. Staff should complete its investigation as soon as practicable in light of the complexity and breadth of the investigation. Among other things, the Commission may use the information developed by this fact-finding investigation to determine how to proceed on any existing or future FPA section 206 complaints involving long-term power sales contracts relevant

to the matters investigated, or any formal FPA section 206 or NGA section 5 proceedings initiated on our own motion.¹

The Commission orders:

(A) Staff is directed to undertake a fact-finding investigation to determine whether any entity, including Enron Corporation (through any of its affiliates or subsidiaries), manipulated prices in the electric or natural gas markets in the West, as discussed in the body of this order. Staff will also look into other factors that may have influenced contract terms. Staff is directed to report its findings to the Commission as soon as practicable.

(B) For the purposes of this fact-finding investigation, the General Counsel or her designee is hereby empowered, with respect to any matters relevant to this investigation, to administer oaths and affirmations; subpoena witnesses; compel their attendance and testimony; take evidence, compel the filing of special reports and interrogatories; gather information; require the production of any books, papers, correspondence, memoranda, contracts, agreements, or other records; perform all other

¹A number of formal section 206 complaints are currently pending before the Commission concerning the justness and reasonableness of prices in long-term sales contracts in the West in Docket Nos. EL02-26-000, EL02-28-000, EL02-29-000, EL02-30-000, EL02-31-000, EL02-32-000, EL02-33-000, EL02-34-000, EL02-38-000, EL02-39-000, and EL02-43-000. The staff investigation initiated here is not an investigation under section 206 of the Federal Power Act but will help inform the Commission on whether and how to proceed with respect to existing or future section 206 proceedings involving long-term contracts in the West. Further, we clarify that this staff fact-finding investigation does not address and does not prejudice any arguments made in individual section 206 complaint proceedings that long-term contracts should be modified as a result of market flaws in California that may have caused prices in long-term contracts to be unjust and unreasonable. Those arguments will be addressed separately when the Commission acts on pending or future section 206 complaints or any section 206 proceedings it institutes on its own motion.

duties in connection with this investigation as prescribed by law; and designate other staff members of the Commission as officers of the Commission with all the powers enumerated in this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.